

To: All Members of the Council

Fiona Cameron, Democratic Services Manager  
& Deputy Monitoring Officer

**Policy and Governance**

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Date: 3 August 2020

Dear Councillor

**COUNCIL MEETING - TUESDAY, 11 AUGUST 2020**

A Virtual EXTRAORDINARY MEETING of the WAVERLEY BOROUGH COUNCIL will be held on **TUESDAY, 11 AUGUST 2020** at **6.00 pm** via Zoom and you are hereby summoned to attend this meeting.

The Agenda for the Meeting is set out below.

Yours sincerely

ROBIN TAYLOR

Head of Policy and Governance

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**[www.waverley.gov.uk/committees](http://www.waverley.gov.uk/committees)**

## **AGENDA**

### 1. **APOLOGIES FOR ABSENCE**

The Mayor to report apologies for absence.

### 2. **DECLARATIONS OF INTEREST**

To receive from Members, declarations of interest in relation to any items included on the agenda for this meeting in accordance with the Waverley Code of Local Government Conduct.

### 3. **LEADER'S ANNOUNCEMENTS**

### 4. **QUESTIONS FROM MEMBERS OF THE COUNCIL**

To respond to any questions received from Members of the Council in accordance with Procedure Rule 11.2.

The deadline for receipt of questions is 5pm on Tuesday 4 August 2020.

### 5. **MOTIONS**

To receive any motions submitted in accordance with Procedure Rule 12.1.

The deadline for receipt of motions was 5pm on Thursday 30 July 2020.

### 6. **MINUTES OF THE EXECUTIVE** (Pages 5 - 12)

To receive the Minutes of the Executive meeting held on 28 July 2020.

There is one Part I matter for Council consideration, at Agenda Item 6.1, below.

*There shall be no debate on any item contained in Part II of the Minutes but Members may give notice in writing, by email, or by phone, by noon on the day of the meeting of a statement or question, and give details of any question (PR 14.14).*

#### 6.1 **Contingency Revised Budget 2020/21 (EXE 16/20)** (Pages 13 - 30)

**The Executive RECOMMENDS to Council:**

- 1. That Council acknowledges the forecast variations from the 2020/21 general fund budget listed in Annexe 1 and approves the mitigation measures set out in Annexe 2 including revisions to approved budgets, the cancellation of approved contributions to reserves and the drawing down of earmarked reserves.**
- 2. That in the event of additional government grant being secured and/or the overall projection set out in Annexe 1 being more**

**favourable than forecast, the net budget surplus arising from this accrues to the business rate equalisation fund, property investment fund and working balance.**

- 3. That a full revision of the approved Medium Term Financial Plan is undertaken which will assess the adequacy of the contingency budget, consider the other options identified but not included at value at this stage, and the wider economic factors – to be reported to Council no later than its December meeting.**
- 4. That in relation to the Leisure Centre issues, the recommendations included in the Exempt Annexe be approved.**

**7. MINUTES OF THE LICENSING AND REGULATORY COMMITTEE (Pages 31 - 34)**

To receive the Minutes of the Licensing & Regulatory Committee meeting held on 30 July 2020.

There is one Part I matter for Council consideration, at Agenda Item 7.1, below.

**7.1 Business and Planning Act 2020 - Pavement Licensing (outdoor seating) and alcohol licensing (temporary off-sales permission) (LIC 14/20) (Pages 35 - 54)**

**The Licensing & Regulatory Committee RECOMMENDS that Council:**

- i. Adopts the policy set out in Annexe A.**
- ii. Sets the fee for a pavement licence at £100.**
- iii. Delegates authority to the Head of Environmental and Regulatory Services to issue pavement licences and/or authority to refuse or amend pavement licences in consultation with the Chairman of the Licensing and Regulatory Committee.**
- iv. Delegates authority to the Head of Environmental and Regulatory Services in relation to enforcement powers under the new legislation (The Business and Planning Act 2020).**
- v. Delegates authority to the Head of Environmental and Regulatory Services to make minor or consequential amendments to the Policy and Licence conditions in the event of any amendments/ updating statutory instruments and/or government guidance in consultation with the Chairman of the Licensing and Regulatory Committee.**

**8. MINUTES OF THE AUDIT COMMITTEE (Pages 55 - 60)**

To receive the Minutes of the Audit Committee meeting held on 20 July 2020.

*There are no Part I matters for Council consideration.*

*There shall be no debate on any item contained in Part II of the Minutes but Members may give notice in writing, by email, or by phone, by noon on the day of the meeting of a statement or question, and give details of any question (PR 14.14).*

9. EXCLUSION OF PRESS AND PUBLIC

If necessary, to consider the following motion, to be moved by the Mayor:

That, pursuant to Procedure Rule 20 and in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of any matter on this agenda on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the item(s), there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified in the appropriate paragraph(s) of the revised Part I of Schedule 12A of the Local Government Act 1972 (to be identified at the meeting).

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE EXECUTIVE - 28 JULY 2020

SUBMITTED TO THE COUNCIL MEETING – 11 AUGUST 2020

(To be read in conjunction with the Agenda for the Meeting)

**Present**

Cllr John Ward (Chairman)	Cllr Mark Merryweather
Cllr Paul Follows (Vice Chairman)	Cllr Nick Palmer
Cllr David Beaman	Cllr Anne-Marie Rosoman
Cllr Peter Clark	Cllr Steve Williams
Cllr Andy MacLeod	

**Apologies**

Cllr Liz Townsend

**Also Present**

Councillor Julia Potts, Councillor Simon Dear, Councillor Jenny Else, Councillor Maxine Gale, Councillor Michael Goodridge MBE, Councillor John Gray, Councillor Joan Heagin, Councillor Jerry Hyman, Councillor Peter Isherwood, Councillor Robert Knowles, Councillor Peter Nicholson, Councillor Ruth Reed, Councillor John Robini and Councillor Richard Seaborne

EXE 11/20 MINUTES (Agenda item 1)

The Minutes of the Meeting held on 8 July 2020 were confirmed as a correct record.

EXE 12/20 DECLARATIONS OF INTERESTS (Agenda item 3)

Cllr Julia Potts declared an interest in relation to item 14, as she was a member of Nuffield Health.

EXE 13/20 QUESTIONS FROM MEMBERS OF THE PUBLIC (Agenda item 4)

There were no questions from members of the public.

EXE 14/20 QUESTIONS FROM MEMBERS OF THE COUNCIL (Agenda item 5)

There were no questions from Members.

EXE 15/20 LEADER'S AND PORTFOLIO HOLDERS' UPDATES (Agenda item 6)

The Leader and Executive Members reported on current issues within their respective Executive portfolios:

- 15.1 Cllr John Ward, Leader of the Council:
- A lot of time had been spent in recent days on the matter of local government in Surrey, and responding to Surrey County Council's letter to the Secretary of State.
- 15.2 Cllr Mark Merryweather, Portfolio Holder for Finance, Assets and Commercial:
- The second round of local authority discretionary business grants for small businesses was now open and criteria had been expanded to include businesses with a rateable value or fixed property-related costs of up to £55,000. Applications could be made through the Waverley website, until 9am on Monday 3 August.
- 15.3 Cllr Steve Williams, Portfolio Holder for Environment and Sustainability:
- Work was progressing on the Climate Emergency Action Plan to provide a more coherent approach and move forward on key projects that would serve as a catalyst and leverage key activities, particularly around active transport, community energy, and invest to save projects that would provide financial as well as carbon savings.
  - Public consultation and engagement was a key part of the Strategy, and a process of public consultation and engagement would begin in August.
- 15.4 Cllr Anne-Marie Rosoman, Portfolio Holder for Housing and Community Safety:
- The Council's Housing Officers continued to support vulnerable and shielded residents, although it was unclear currently what would be required by the government when shielding came to an end at the beginning of August. Preparations were in place in the event of a second Covid-19 wave.
  - Redevelopment of Ockford Ridge was progressing well, and an average of four households per week would be moving back over the next four weeks.
  - Waverley had housed over thirty homeless households at the height of the pandemic, most of whom had now been moved out of temporary accommodation and into more suitable accommodation.
- 15.5 Cllr Andy MacLeod, Portfolio Holder for Planning Policy and Brightwells
- Work on the Brightwells Yard development had resumed post-lockdown, and was now up to 80% capacity. However, the opening would be delayed, from spring 2021 to autumn 2021. There had been some changes in the Crest Nicholson management team, but they were confident that the development would open in autumn 2021.
  - The NMA planning application in relation to tree works on site had been withdrawn.
- 15.6 Cllr Nick Palmer, Portfolio Holder for Operational and Enforcement Services
- Car park usage continued to increase, but they were still well under capacity and there were no proposals to make any changes to parking charges for the time being in order to protect the interests of shops and car park users.

- 15.7 Cllr David Beaman, Portfolio Holder for Health, Wellbeing and Culture
- The Waverley HOPPA service had resumed, and every effort was being made to encourage people to use the service and get out and about again.
- 15.8 Cllr Peter Clark, Portfolio Holder for Business Transformation, IT and Customer Services:
- In contrast to the recent discussions around unitary authorities, and a potential Surrey-wide unitary authority, Waverley was focussed on transforming its approach to customer services, and replacing individual service-level customer service teams with one integrated customer service centre. This would include a master customer management database, enabling better understanding of customer needs and making the customer journey more efficient and easier.
- 15.9 Cllr Paul Follows, Deputy Leader
- Work on refreshing the Corporate Strategy was continuing over the summer.
  - The revised governance structure for Dunsfold Park Garden Village had now been circulated to all councillors; it now included the borough councillors local to the Dunsfold area, and also representatives from Alfold, Bramley, Cranleigh and Dunsfold parishes.

## **PART I - RECOMMENDATIONS TO THE COUNCIL**

### Background Papers

Unless specified under an individual item, there are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to the reports in Part I of these minutes.

### EXE 16/20 CONTINGENCY REVISED BUDGET 2020/21 (Agenda item 7)

- 16.1 Cllr Mark Merryweather introduced the report that set out the severe financial impact on the Council of the COVID-19 pandemic, and the measures proposed to address the £6.6m shortfall in the 2020/21 General Fund budget that had arisen. The budget shortfall was largely due to loss of income from council car parks, and from closure of the leisure centres.
- 16.2 In addition to government grants received totalling £1.4m, the proposed mitigation comprised reduced in-year spending of £2.3m and drawdown from reserves of £2.9m. Further options for savings had been identified but these had not been developed sufficiently to 'bank' the savings at this time. The proposals to balance the 2020/21 GF budget had been presented to Members in a briefing, and then scrutinised by the Value for Money Overview & Scrutiny Committee on 13 July. The budget gap remained at £6.6m as presented at that time, and there were no changes in the underlying assumptions. There was still a lack of detail around how much further funding would be available from the government to compensate for lost income.

16.3 Cllr Merryweather concluded his presentation by commending officers in the Council's Finance Team for their work in developing the revised budget, as well as dealing with the additional work load of administering the government's business grant schemes; and also the constructive and helpful contributions of councillors and especially the Value for Money Overview & Scrutiny Committee.

16.4 Cllr Julia Potts spoke to emphasise the importance of reaching a swift resolution to the negotiations with Places Leisure, so that the leisure centres could re-open as soon as possible in order to stem the loss of income and for the health and well-being of Waverley residents.

**16.5 The Executive RESOLVED to recommend to Council:**

- 1. That Council acknowledges the forecast variations from the 2020/21 general fund budget listed in Annexe 1 and approves the mitigation measures set out in Annexe 2 including revisions to approved budgets, the cancellation of approved contributions to reserves and the drawing down of earmarked reserves.**
- 2. That in the event of additional government grant being secured and/or the overall projection set out in Annexe 1 being more favourable than forecast, the net budget surplus arising from this accrues to the business rate equalisation fund, property investment fund and working balance.**
- 3. That a full revision of the approved Medium Term Financial Plan is undertaken which will assess the adequacy of the contingency budget, consider the other options identified but not included at value at this stage, and the wider economic factors – to be reported to Council no later than its December meeting.**
- 4. That in relation to the Leisure Centre issues, the recommendations included in the Exempt Annexe be approved.**

**PART II - MATTERS OF REPORT**

The background papers relating to the following items are as set out in the reports included in the original agenda papers.

**EXE 17/20 RECOVERY CHANGE AND TRANSFORMATION (RCT) PROGRAMME (Agenda item 8)**

17.1 The Leader introduced that report setting out the details of the Recovery, Change and Transformation Programme, which aimed to identify and address the operational impacts on the council and the community of the COVID-19 pandemic, as they moved from emergency response to recovery and planning for the future. The programme sought to harness the learning from the new ways of working experienced during lockdown and the impact this would have on the longer term structure and priorities of the Council.



**17.2 The Executive RESOLVED to approve the Recovery, Change and Transformation Programme and the medium and longer term Project Objectives of the 10 projects that form the RCT Programme.**

EXE 18/20 RECOVERY AND DEVOLUTION WHITE PAPER: LOCAL GOVERNMENT IN SURREY (Agenda item 9)

- 18.1 The Leader introduced the item by proposing a revised recommendation, which was seconded by Cllr Follows and agreed by the Executive Members. The revision proposed that the Waverley Borough Council motion agreed on 22 July, and the letter of the Surrey district and borough council leaders to the Secretary of State of 23 July, which had been circulated as annexes to the agenda, be noted; and that a budget of £10,000 be established to support preparatory work for a unitary council proposal.
- 18.2 The Leader reminded Members of recent events that began with the Government announcement at the beginning of the month of the publication in the autumn of the long-awaited Recovery and Devolution White Paper. On 10 July, the Leader of Surrey County Council had written to the Minister asking that Surrey be allowed to present a proposal for a single unitary covering the whole of Surrey. At the Surrey Leaders' Group meeting on 17 July, the District and Borough Leaders had expressed their great disappointment at the lack of engagement or consultation prior to the letter being sent. The Surrey Leader's letter had been presented to his Cabinet on 21 July.
- 18.3 On 22 July, Waverley's Full Council met and passed a Motion opposing a single Surrey-wide unitary authority, recognising principles of localism, and instructing the Executive to urgently investigate alternative forms of unitary authority that might be more advantageous to Waverley and its residents, including opportunities with neighbouring councils. On 23 July, the Leaders of all eleven Districts and Boroughs had signed a letter to the Secretary of State asking that they also be invited to present a case for more unitary authorities. This was a firm expression of the dislike of the Surrey proposals from across the county.
- 18.4 Cllr Robert Knowles thanked the Leader for clarifying the timeline of events, and the fact that there had been no engagement with District and Borough Leaders prior to the Surrey Leader writing to the Secretary of State. Cllr Knowles noted that the report to the Surrey Cabinet referred to a single unitary covering an area that would provide a 'credible geography' for new structure, and highlighted that in Haslemere the natural geography and connections were to Midhurst, Alton and Aldershot, and to the south coast. He also drew attention to the examples in Cllr Oliver's letter that evidenced the divide in services between the north and the south of the county, and concluded that in his opinion a single Surrey unitary would be a disaster for Waverley residents.
- 18.5 Cllr John Robini thanked the Leader and the Leaders of the other Districts and Boroughs for their united and prompt response to the Surrey Leader's letter. He did not agree that Waverley would be best-served by a single Surrey unitary, and he encouraged Waverley and the towns and villages to

start thinking about the future. Cllr Robini commended the revised proposal before the Executive and echoed Cllr Knowles' view that options should include consideration of joining with rural areas to the south of Waverley to protect the rural voice of the borough.

18.6 Cllrs Follows, Palmer and Clark all spoke to highlight the feat of uniting the Districts and Boroughs in a joint response to the Secretary of State; the absence of any detail about what powers might be devolved to towns and parishes, which in itself seemed contrary to the government's trend to centralise control; the importance of proportional representation for a larger electoral area; and the hope that Waverley's allocation of a budget would prompt similar action from the other Districts and Boroughs, in order to develop an alternative business case to what the County Council was proposing.

18.7 In concluding, the Leader emphasised again the lack of consultation prior to Cllr Oliver's letter being sent, and the urgency of sending a clear message from the Districts and Boroughs of the lack of support for a Surrey-wide unitary.

#### **18.8 The Executive RESOLVED**

**1) To note: the Surrey County Council Cabinet report; the letter from the Surrey County Council Leader, Cllr Tim Oliver, to the Secretary of State for Housing, Communities & Local Government, the Rt Hon Robert Jenrick MP; the Waverley Borough Council motion of 22 July 2020; and the letter of the Surrey district and borough council leaders to the Secretary of State of 23 July, attached as annexes to this report.**

**2) To allocate a budget of £10,000 to support preparatory work for a unitary council proposal.**

**3) To note that:**

**a) Officers have identified an existing budget where there is a high degree of certainty that an underspend will occur this financial year (mileage and subsistence costs during lockdown period), and**

**b) under paragraphs 4.23-4.26 and annexe 1 of the Financial Regulations, this amount can be vired with officer approval, so a supplementary estimate is not required.**

#### **EXE 19/20 LITTER ENFORCEMENT AT FRENESHAM (Agenda item 10)**

19.1 Cllr Nick Palmer, Portfolio Holder for Operational and Enforcement Services, introduced the proposal to procure additional enforcement resources for Frensham Great Pond. This was a very attractive site that had been in tremendous demand since the end of lockdown, and there had been many instances of social distancing being ignored, huge amounts of litter being left, and illegal parking on the main road. This had put huge strain on Waverley's staff, and spoiled the area for residents and visitors.

- 19.2 It was proposed to contract with East Hampshire District Council to provide additional enforcement officers at Frensham Great Pond and to help maintain the area in an enjoyable state for visitors. Cllr Palmer thanked Waverley Rangers and Enforcement Officers for their hard work under exceptionally difficult conditions, and encouraged residents to visit other attractive parts of Waverley to allow Frensham Pond some time to recover.
- 19.3 **The Executive RESOLVED to authorise the Head of Environmental and Regulatory Services to procure additional enforcement resources on a cost neutral basis, from external providers during periods of peak demand as and when required in consultation with the Portfolio Holder for Operational and Enforcement Services.**

EXE 20/20 PAVEMENT LICENSING (Agenda item 11)

This matter was withdrawn from the Executive agenda and would be considered by the Licensing & Regulatory Committee on 30 July 2020.

EXE 21/20 PROPERTY MATTER - THE BURYS DEVELOPMENT - PROJECT INITIATION DOCUMENT (PID) (Agenda item 12)

- 21.1 Cllr Mark Merryweather, Portfolio Holder for Finance, Assets and Commercial Services, introduced the report in the context of the Council's Medium Term Financial Plan and Property Investment Strategy. The goals of the strategy pointed towards responsible development of residential open market homes on land owned by the council. The Burys site presented one such opportunity, and the Executive had already approved a budget to commission a detailed options appraisal. The PID set out the scope of the development project, and reflected the feedback received and clarification given following the report earlier in the year.
- 21.2 Cllr Follows thanked Cllr Merryweather for ensuring that the feedback from Godalming Members, and Godalming Town Council, had been reflected in the project scope, and emphasised the importance to the sustainability of the town centre of the continued presence of Waverley Borough Council in Godalming.
- 21.3 The Executive RESOLVED to approve the PID for the Burys Development Project.**

EXE 22/20 EXCLUSION OF PRESS AND PUBLIC (Agenda item 13)

At 7.10pm, on the recommendation of the Leader, the Executive RESOLVED that, pursuant to Procedure Rule 20, and in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following item on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during this item, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified at the meeting in the revised Part 1 of Schedule 12A to the Local Government Act 1972.

EXE 23/20 PROPERTY MATTER (Agenda item 14)

**23.1 The Executive RESOLVED to approve the recommendation set out in the Exempt Report.**

**The meeting commenced at 6.00 pm and concluded at 7.15 pm**

**Chairman**

**WAVERLEY BOROUGH COUNCIL**

**COUNCIL**

**11 AUGUST 2020**

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**Title:**

**CONTINGENCY REVISED BUDGET 2020/21**

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**Portfolio Holder:** Cllr Mark Merryweather, Portfolio Holder for Finance, Assets & Commercial Services

**Head of Service:** Peter Vickers, Head of Finance and Property

**Key decision:** Yes

**Access:** Part Exempt

**Note pursuant to Section 100B(5) of the Local Government Act 1972**

An Annexe to this report contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in Paragraph 3 of Part I of Schedule 12A to the Local Government Act 1972, namely:

Information relating to the financial or business affairs of any particular person (including the authority holding that information)

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**1. Purpose and summary**

1.1 The COVID-19 emergency continues. This report outlines the latest projections of income and expenditure against budget in 2020/21 and highlights the significant projected net adverse variances from budget which arise as a result of the known impacts of the COVID-19 pandemic on the Council's services and finances. The extent of any further funding from government is currently unknown and therefore this report presents contingency proposals to address the latest projected budget shortfall on an emergency basis. These proposals have been prepared jointly by officers and the Executive and have been considered by the Value for Money Overview and Scrutiny Committee in pre-decision scrutiny ahead of the Executive meeting and the special Council meeting in early August.

1.2 This report contains the following Annexes:

Annexe 1 – Schedule of projected variations from general fund budget in 2020/21

Annexe 2 - Proposed mitigation measures to address budget shortfall

Annexe 3 – Options and alternative mitigation

Annexe 4 – Schedule of projected reserves and balances

Annexe 5 (Exempt) – Leisure Centre operator impact and proposals

**2. Recommendations**

## The Executive RECOMMENDS to Council:

1. That Council acknowledges the forecast variations from the 2020/21 general fund budget listed in Annexe 1 and approves the mitigation measures set out in Annexe 2 including revisions to approved budgets, the cancellation of approved contributions to reserves and the drawing down of earmarked reserves.
2. That in the event of additional government grant being secured and/or the overall projection set out in Annexe 1 being more favourable than forecast, the net budget surplus arising from this accrues to the business rate equalisation fund, property investment fund and working balance.
3. That a full revision of the approved Medium Term Financial Plan is undertaken which will assess the adequacy of the contingency budget, consider the other options identified but not included at value at this stage, and the wider economic factors – to be reported to Council no later than its December meeting.
4. That in relation to the Leisure Centre issues, the recommendations included in the Exempt Annexe be approved.

### 3. Reason for the recommendation(s)

The annual budget is a major decision for the Council and setting a balanced budget is a statutory requirement. As a result of the sudden and unexpected need to review the 2020/21 budget in the light of the COVID-19 impact, the Council must act quickly to ensure the significant projected net budget shortfall is addressed so that the Council can continue to function. Pre-decision scrutiny of the revised budget proposals, as undertaken by the VFM O&S committee on 13 July, demonstrates democratic transparency and good governance

### 4. Background

4.1 In February 2020 the Council agreed its Medium-Term Financial Plan and set its revenue and capital budget for 2020/21. Councils are required by law to have a balanced budget. There is no set definition in law of 'balanced budget' but the Chief Finance Officer (CFO) must work with the Council to ensure that the budget is robust and sustainable. A prudent definition of a sustainable balanced budget would be a financial plan based on sound assumptions which shows how income will equal spend over the short and medium term. Legislation provides a description to illustrate when a budget is considered not to balance, which is:

- Where the increased uncertainty leads to budget overspends of a level which reduces reserves to unacceptably low levels, or
- Where a council demonstrates the characteristics of an insolvent organisation, such as an inability to pay creditors

4.2 In the budget-setting report each year, the CFO makes a statutory statement about the adequacy of reserves, robustness of estimates and effectiveness of monitoring arrangements. These statements have been updated later in this report to reflect the revised budget proposals put forward. Whilst the 2020/21 budget included a range of estimates based on assumptions, at the time the

budget was set the budget was deemed to be robust and deliverable overall. With regard to monitoring, this is undertaken by officers on a monthly basis and reported to Councillors with the quarterly reports. Normally, in-year variations to budget can be addressed with management action under the Council's Financial Regulations and the approved scheme of virements. However, the sudden, unexpected and material adverse impact of the COVID-19 pandemic has necessitated a thorough review of the Council's budgets and assumptions which has identified a projected budget deficit of £6.6m. This is explained in detail in this report. There is a risk that the Council may not have yet identified all of the impacts and that the pandemic may not be controlled as currently envisaged.

4.3 In May, the Executive considered a report on the Council's response to the COVID-19 pandemic which included a summary of the emerging financial impact at that time. That report identified a potential range of budget deficit of £3m to £9m in 2020/21 and set out four interim actions to take, including preparing a report setting out options for reinstating the £1m working balance used to temporarily prop up the budget pending a full review into the financial impact. The Council is reporting the impact to government each month.

4.4 This report focuses on the urgent action needed to re-balance the 2020/21 general fund budget. Elsewhere on this agenda is a report which sets out the Council's 'Recovery, Change and Transformation' work programme which includes a comprehensive review of the longer-term effect on the approved Medium-Term Financial Plan and considers the Council's future financial resilience, taking account of the wider economic conditions. This will be reported to Councillors in the Autumn.

### 2020/21 Revised Budget Projections

4.5 Throughout June, the Head of Finance and Property led an exercise with the finance team and all Heads of Service to revisit all budgets and assumptions, identify the budgets impacted and produce a revised forecast for the year based on the best information available. The majority of budget heads were considered to be appropriate and achievable this financial year and the £698k of savings measures approved by council in February are on track. However, a number of budgets are showing a material variance projected. A summary of the main headings is included in the table below and a detailed schedule is at Annexe 1.

	£
Leisure facilities	£2.7m
Car park income	£2.0m
Property income	£0.7m
Planning and land charges income	£0.6m
Other costs and loss of income	£0.6m
<b>Total</b>	<b>£6.6m</b>

The financial impact of the pandemic on the Council's budget can be broadly summarised as follows:

- Direct costs. The Council's staff have been redeployed to its own services and to implement government-mandated schemes. The Council has incurred overtime costs and has not made use of the furlough scheme. The Council was already implementing budgeted savings of £0.7m.
- Direct income losses. The government enforced facility closures, including leisure centres and museums, through secondary legislation and thereby triggered contract clauses that impose cost burdens directly on the Council.
- Consequential losses (e.g. car park income, and slow recovery following reopening of facilities)

### **Proposed Mitigation for budget deficit in 2020/21**

- 4.6 In late April 2020 when the full potential impact on the Council's finances became clearer, Management Board took the decision to suspend all non-critical recruitment, review all external staff costs and suspend non-urgent spending where possible. This was an interim measure to help reduce costs. Furlough was considered but was not possible as most functions of the council continued to operate and some areas experienced significantly greater demand. In addition to business as usual, the government and the Surrey Local Resilience Forum required Waverley to implement a range of COVID-19 support measures on the ground, such as business grants and housing rough sleepers, so staff in lower priority service areas were voluntarily redeployed. The government also communicated to councils that the furlough scheme was not intended for public service organisations, except in limited circumstances.
- 4.7 The government has so far given the Council £1.427m of COVID-19 support grant towards its £6.6m projected budget deficit, leaving a balance of £5.2m to be mitigated. On 2<sup>nd</sup> July the government announced further £500m of financial support to local authorities, plus compensation for lost income from fees and charges. Waverley's share of the £500m is £146k (included in the figure above) and the indication is that the government will also provide grant to cover 75% of 95% of lost income. However, at the time of publishing this report the details of what is in scope and the precise amount that Waverley may receive is not known. It is clear from the Government's announcement that the additional funding, whilst welcome, will not be sufficient to offset the full impact and will probably leave a substantial deficit still to address. Therefore, until clarity is given by the Government, £5.2m of budget mitigation must be identified and put forward to Council for approval.
- 4.8 The exercise undertaken with Heads of Service has identified a number of revenue and capital cost savings measures and these are included in the table at Annex 2. The Head of Finance and Property has also reviewed the Council's earmarked and non-earmarked reserves and, working with the Portfolio Holder for Finance and the Executive, a package of reserve movements is proposed which is also included at Annex 2. Clearly the Council did not intend to be in this position and reducing service costs and switching reserves from their intended prudent purpose to meet a one-off need is not a sustainable position. There will be risks and impacts arising from these proposals, which are identified later in the report.

### **Options and potential alternative mitigation**



- 4.9 The proposals set out in Annexe 1 are considered by officers and the Executive to be the least-worst approach to addressing the budget deficit, taking account of agreed Corporate Strategy priorities. However, to assist the scrutiny process, a list of other options that were identified but not included in the proposed measures at this stage have been included at Annexe 3. Whilst the options in Annexe 3 are not included in the revised budget put forward, officers are considering them as part of the review of future years' budgets and the MTFP which will be reported to committees in the Autumn. In addition, the ongoing business transformation programme is continuing to examine a range of efficiency and service improvement measures that will benefit future years' budgets.

### **Other matters to consider**

#### **Leisure Centres**

- 4.10 In common with most other borough councils, the highest value variation against Waverley's budget this year is the impact of the government's decision in March to require all leisure centres to close. The Council's budget in 2020/21 includes a net management fee paid to the Council of £400k. Places Leisure (PL) (part of Places for People Group Ltd.) wrote to the Council, immediately following the legislation taking effect, setting out the financial and contractual steps that they had to take. This has significant financial implications for the Council. Officers have sought external legal advice and have been in active dialogue with PL to try to reach an acceptable settlement position. As this is not resolved yet and still subject to negotiation and agreement, the financial and legal details that are relevant to the decision that Council will need to take are set out in the Exempt Annexe.
- 4.11 There are two aspects to any agreement. Firstly, the position on the closure period and how PL's loss of income and unmitigated costs compare to the expected management fee payment. Secondly, there is the detail of PL's reopening plan and the financial impact of this. In early July the Government announced that leisure centres can reopen on 25<sup>th</sup> July but with a raft of legally required restrictions. It is clear that it will take many months for the leisure centres to be able to fully open and many more months to restore a full trading position.

#### **Cash Flow**

- 4.12 Whilst this report is concerned with the Council's budgets, its cash flow is also being monitored closely. This is different from the council's budgets and funding and, as identified in the medium-term financial plan (MTFP), Waverley BC handles over £200m of cash in a year. The main areas impacted by COVID-19 are council tax and business rate collection and income from fees and charges, such as car parks. At this stage, it is expected that overall cashflow in quarter 1 can be managed without taking drastic action as the Government has deferred some major payments and officers have retained sufficient liquidity in treasury activity but the position may deteriorate in quarter 2 of the financial year as the business grants are finalised and payments to the government resume.

#### **Council Tax, Business Rates and benefits**

- 4.13 The amount of council tax that will be paid to each of the precepting bodies,

including Waverley, Surrey County Council and the parish and town councils, is fixed for the financial year. Any variation in actual compared to estimated forecasts used in calculating the council tax base and/or the estimated in-year collection rate will impact in the following and subsequent years. For example, if Council Tax Support caseload and value increase above the estimated amount, or if the collection rate was lower than the assumed amount, the collection fund will fall into deficit which will be apportioned in future years. In its recent announcement, the Government has confirmed that it will allow councils flexibility to spread this impact over more than one year but the details are not yet known. Government Covid19 support to business in the form of reliefs and grants will be fully reimbursed and not impact on Waverley's finances. In the 2<sup>nd</sup> July announcement, the Government has stated that it will support councils by allowing them to spread the impact over three years. The details are not available yet but this could be a helpful measure to smooth the pressure on Waverley's budget in future years.

- 4.14 At the end of May, council tax support caseload was 15% up (and rising) and the collection rate was 1.5% down on the same period last year. This impact will be examined in more detail in the review of the Medium-Term Financial Plan and scenarios modelled. Business rates are 4% down on the same period last year. The number of households in Waverley receiving Universal Credit increased from 2,158 in March to 3,264 in April. May's figures are not available from the Department for Work and Pensions yet but this is an early indication of the severe impact on household income.

### **Housing Revenue Account (HRA)**

- 4.15 It is estimated that there will be some impact against the HRA budget in 2020/21, albeit less severe than on the General Fund. Reduced income and additional costs will arise from higher numbers of void properties as contractors are not able to undertake the works necessary to re-let properties quickly when they become vacant. There could be additional pressures on rent collection over the course of the year as some tenants' household income could be affected by the COVID-19 impact. This is being monitored closely by the housing team. The Head of Housing Operations expects the overall net impact on the HRA budget to be met from within existing budgets over the year so no action is required at this stage.

### **Town and Parish Councils**

- 4.16 The government grant received of £1.427m is to help mitigate the costs incurred by the Council in responding to the impact of COVID-19 and further funding could follow as announced on 2<sup>nd</sup> July. The government recently wrote to town and parish councils to acknowledge that their finances may also have been affected but there would be no new funding given to them directly and they should discuss their impact with their higher tier councils. The Council invited parish and town councils to share their financial impacts so they could be included in the government returns. The total budget impacted across all town and parish councils in 2020/21 is currently estimated to be £270k.
- 4.17 The proposal put forward in this report for consideration and decision is that £80k of the government grant be top-sliced to support town and parish councils that can demonstrate a net loss of income due to COVID-19. At the time of writing this is higher as a percentage of impact than WBC is receiving. An assessment

process will be worked up by officers in consultation with the Leader, Deputy Leader and Finance Portfolio Holder. In the event that Waverley receives further non-ringfenced Covid-19 support grant from Government, the amount to be made available to Town and Parish Councils will be reviewed. It is proposed that such a review would follow the broad principle that the percentage of grant for T&P councils, compared to their total loss, will be higher than the equivalent calculation for Waverley BC.

## **Risk and Impact**

- 4.18 There is a risk that, if not monitored adequately, the proposed measures will have an adverse impact on services. Specifically, the prolonged vacancy freeze, reduced capital spend and pared back service costs could put pressure on services, particularly if the Council experiences further pressure as a result of the predicted wider economic downturn.
- 4.19 The impact in future years of Waverley needing to unexpectedly draw down significant value of reserves is difficult to assess but, given the £5.4m budget shortfall pa already projected in the medium term, these measures will put serious pressure on the Council's financial resilience. The proposals aim to maintain the general fund working balance at the prudent £3.2m level but draw down other prudent amounts set aside for specific risks such as property void and business rates equalisation. The imminent review of the MTFP will need a strong focus on ensuring robust approach to reserves in the future. In the light of the Covid-19 impact, the government need to urgently give clarity to councils on business rate funding and address the growing risk of business rate appeals and declining rateable values to local council budgets.

## **S151 Officer Summary**

- 4.20 Officers will need to increase the robustness and frequency of monitoring against budget throughout the rest of the financial year to ensure that there is an early warning of any worsening of the position so that further action can be quickly taken. Similarly if the position improves, action to relax the measures may be appropriate if there is sufficient confidence that this can be achieved. More specifically, if the Government gives Waverley further Covid19 grant in addition to the £1.4m referred to in this report, it is proposed to apply this to reduce the identified draw from reserves. Given the significant budget deficit already forecast in the MTFP of £5.4m and the likely longer term impact of this emergency situation, this would maximise flexibility and partially restore resilience in future years.
- 4.21 If the Council fails to agree quick and effective action to bring the budget into balance, officers will need to consider what urgent action is necessary. Much has been said in national reports about councils needing to issue a Section 114 notice, which is effectively a statutory call for action from the S151 officer, normally in consultation with the council's external auditors. This should only be considered as a last resort and the proposals included in this report, whilst difficult to accept and challenging to deliver, set out an achievable plan for agreeing a contingency revised budget. Robust scrutiny and councillor briefing will be essential leading up to full council decision.

## **5. Relationship to the Corporate Strategy and Service Plan(s)**

5.1 Having a robust, sustainable budget is essential to deliver all aspects of the Corporate Plan.

## **6. Implications of decision(s)**

### **6.1 Resource (Finance, procurement, staffing, IT)**

All decisions made with regard to the budget will impact on Waverley's resources

### **6.2 Risk management – covered above**

### **6.3 Legal**

The Coronavirus Act came into force on 25 March 2020, and since that date the government has introduced a significant amount of secondary legislation (statutory instruments) that has required the Council to change the way in which its services are delivered; required partner organisations and contractors to change their operational pattern, or temporarily cease operations altogether; and placed additional temporary functions within the Council's statutory powers, including additional enforcement powers in relation to businesses and additional homelessness duties.

Throughout this period the Council's Legal Services team has supported the Council's COVID-19 response by providing advice in relation to any and all suspended, additional and revised discretionary and non-discretionary functions, to ensure the Council has continued to operate lawfully in accordance with both existing and COVID-19-related legislation.

Over the coming months as the impacts of the effect of COVID-19 continue to be evaluated, that advice will continue so as to enable the Council to function lawfully in circumstances where the financial resources available to its non-discretionary and discretionary services are under far greater pressure than anticipated when the 2020/21 budget was set. Any and all further legislative changes and statutory guidance will be assessed and the Council's service supported with advice targeted to those changes, including through the Recovery, Change and Transformation programme.

### **6.4 Equality, diversity and inclusion**

There are no direct equality, diversity or inclusion implications in this report, however, an equality impact assessment of the detailed budget proposals will be completed to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

### **6.5 Climate emergency declaration**

There are no direct implications arising from this report but reference is made to the need for the main budget proposals to address the resource requirement for the emerging climate change action plan. The current proposals retain in full the budget for delivering the action plan.

## **7. Consultation and engagement**

7.1 The full budget proposals and options have been considered by the Value for Money Overview & Scrutiny Committee for discussion and scrutiny. In advance of the O&S meeting, there was an all-member briefing in the subject to enable councillors to receive a presentation on the main issues and ask questions ahead of the Council meeting in August. Officers have been working with the Staff side/Union in the formation of the Recovery, Change and Transformation programme and this work will continue. In parallel to the council's scrutiny and decision making process, officers will discuss the position and proposals with Grant Thornton, Waverley's external auditors.

### **Value for Money Overview & Scrutiny Committee comments**

7.2 The Committee had some concerns about reducing the levels of discretionary reserves, and would like a better understanding of the risk assessment of these reserves when the MTPF is reviewed in the Autumn. The Committee agreed that the Government should be lobbied to get as much funding as possible to cover Covid expenses and loss of income, and that the first call on any additional funding should be to reinstate reserves that had been drawn upon to mitigate the impact of Covid.

7.3 Committee observed that out of the alternative options presented the most serious and worth consideration were widening the definition of the Council's criteria for Better Care Fund, raising the cost of a green waste subscription for a year by £5 and cutting grass verges to the standard allowed by the funding from SCC as opposed to topping up the funding with funding from Waverley. Committee also recommended reconsideration of the SANG reserve in order to contribute to meeting the short term financial shortfall.

7.4 The Committee noted that the cost savings of £699k included in the base budget for 2020/21 had largely been secured, and suggested that this could be made clearer in the report, to provide reassurance that the revenue cost savings proposed as mitigation were not double-counting.

7.5 The Committee went into Exempt session to discuss the Exempt annexe on the Leisure Centre Costs. Noting the local competition for some leisure centres, and the community need for leisure centres, accepting the Council's legal position and the costs involved the Committee was keen to see the leisure centres open up as soon as possible but with the least exposure possible to risk for the Council.

### **8. Other options considered**

8.1 Options considered are set out in the report and the annexes.

### **9. Governance journey**

8.1 The budget proposals included in this report were presented to the Value for Money Overview & Scrutiny Committee on 13 July 2020 for pre-decision scrutiny ahead of consideration by Executive on 28 July 2020 and Council on 11 August 2020.

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### **Background Papers**

There are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

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CONTACT OFFICERS:

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Agreed and signed off by: Graeme Clark and Councillor Merryweather  
Legal Services: Daniel Bainbridge, Borough Solicitor  
Head of Finance:  
Strategic Director:  
Portfolio Holder:

Annexe 1 – Schedule of projected variations from general fund budget in 2020/21

General Fund Forecast variance to budget 2020/21	£ `000	2021/22 impact	
Leisure Facilities	2,744	Possible	Impact on leisure facilities - see exempt annexe for details
Car Parks General	1,994	Not expected	Full year budget is £5m, assumes charging starts beginning of July with 50% of average 3 years monthly income, increasing 10% per month. If capacity in July is 50% add £200k, 40% add £433k and 30% add £860k
Investment Properties Target	500	Possible	Represents £200k 2019/20 and £300k 2020/21, need to invest C.£25m to achieve £500k full year effect.
Development Management	454	Possible	Full year budget is £1.56m, shortfall represents 30% reduction, 10% equates to £156k income. Assumption on forecast is that June and July will be same income levels as May and then start to recover at three year average from August, it is quite an optimistic forecast and likely to get worse. Currently down 20% on 2019/20, could be an additional £260k deficit.
Investment properties	242	Possible	Net adjustment including MRP and Wey Court East is unlikely to be let in 2020/21.
Land Charges	106	Not expected	Full year budget is £405k, assumes property market transactions will resume post lockdown.
Parks and Countryside	59	Not expected	Full year budget is £430k, Events, pitch hire and Frensham car park income not achieved April-July, varying assumptions on speed of recovery.
Borough Hall	57	Not expected	Full year budget is £106k, Site closed for events, assumed no income April-June, 40% July then increasing 10% per month thereafter, no cinema income for the year as unlikely to be able to run with social distancing.
Building Control	46	Not expected	Full year budget is £630k, Service has been operational during lockdown
Memorial Hall	38	Not expected	Full year budget is £129k, Site closed for events, assumed no income April-June, 50% July then increasing 10% per month thereafter
Careline	23	Not expected	Full year budget is £500k, Unable to install new equipment for new customers so income is impacted.
Debt recovery court costs recovery	83	Possible	Council tax and Business rates recovery of court costs, unlikely to be progressing debt recovery via liability orders in light of Covid economic impact
Financial Expenses	(40)	Not expected	Reduced number of card payment fees
Green Waste Recycling	(19)	Will increase	Reflects a significant increase in the number of subscriptions and additional collection costs.
Covid-19 - PPE	9	Possible	Additional office hygiene provision will be expected whilst the virus is not contained
Covid-19 Additional Staffing Revenues and Housing benefits	205	Possible	Increased debt arrears and economic recession impact on peoples income will require more work on income recovery benefit administration
Covid-19 Town and Parish contribution from grant	80		
Covid-19 Additional cleaning staff	40	Possible	Additional office hygiene provision be expected whilst the virus is not contained
Covid-19 - Biffa bring site additional servicing	37	Not expected	
Other small variances	(22)		
<b>Forecast operating deficit</b>	<b>6,636</b>		Sensitivity range on income areas is an additional £1.5m: Car Parking £1m, Development Control £260k, others combined £250k

## Annexe 2 - Budget summary and proposed mitigation measures to address budget shortfall

	£ `000	
<b>General Fund Forecast variance to budget 2020/21</b>	6,636	
<b>Revenue and capital cost savings measures</b>		
Covid-19 Costs Government Grant	1,427	
Covid-19 Government reimbursement of grants/shielding/rough sleepers	80	
Expenditure review	436	See below *
Capitalise Transformation team and fund from capital receipts	175	
Staff travel cost reduction	40	
Staffing conference and training costs	23	
Staff salaries: vacancy saving from a recruitment freeze	600	
Cancelled revenue contributions to reserves	510	See below *
Reduced revenue contribution to capital programme	472	
<b>Total mitigation from 2020/21 revenue budget</b>	<b>3,763</b>	
<b>To be financed from reserves</b>	<b>2,874</b>	
<b><u>Ear Marked Reserves:</u></b>		
		Remaining Bal
Flexible Homelessness Support Grant	474	(500)
Emergency Funding	17	(0)
Brightwells Reserve	296	(16)
Place Shaping	188	(132)
Investment Advisory Board	418	(2,014)
Business Rates Equalisation Reserve	649	(3,201)
SANG Site acquisition	200	(800)
Commercial Property Void provision	425	0
	0	0
Climate change	0	(300)
Local Plan Reserve	0	(236)
Revenue Reserve Fund - Capital Programme funding	0	(197)
Insurance Reserves	0	(566)
Borough Elections Reserve	0	(63)
Insurance Reserve - MMI run off	0	(188)
<b>Total available earmarked Reserves</b>		<b>(8,212)</b>
<b>General Fund working balance: min balance £3.2m</b>	206	<b>(3,200)</b>
<b>Total reserve drawdown</b>	<b>2,874</b>	
<b>* Expenditure review</b>		
	<b>Budget</b>	<b>Adjustment</b>
Operational budget adjustments	1,374	398
Mayors Costs	5	1
Farnham Maltings Museum management fee	71	20
Waverley magazine	32	17
<b>Total expenditure review</b>	<b>1,482</b>	<b>436</b>
<b>* Cancelled revenue contributions to reserves</b>		
New Homes Bonus to Property Investment reserve	260	
Local Plan Part 2 costs	40	
Business Rates Equalisation reserve	210	
<b>Total cancelled revenue contributions</b>	<b>510</b>	



### Annexe 3 – Options and alternative mitigation

Further Items/Options to Explore	£ `000	Action	Impact
Leisure Centres	?	Review detailed options in the light of Government announcements and further negotiation with contractor	?
Green Waste subscription Fee	85	Consider increase in annual fee to £70	Potential drop off in users, so far Waverley has experienced increases in the customers regardless of fee increases.
Better Care Fund	?	Review Better Care Fund guidance to see if allowed to use more flexibly to fund staff support in in administration and management of facilitating people to stay at home longer.	Utilising unused grant balances
Grass verge cutting	95	Reduce the enhanced specification of the grass verge cutting SCC contract to maintain the service within the SCC contract sum.	Safety concerns, Potential improved biodiversity
Grounds maintenance temporary contract reduction	319	Negotiate a 10% reduction in the grounds maintenance contract for 2020/21 and hold back on the one off additional works budget.	May result in redundancies as staffing has been hired for the seasonal work.
Community organisation Service Level Agreements - temporary reductions	126	Some of the organisations ceased to operate during lockdown and have accessed government assistance. Reduce the SLA payments in line with reduced costs.	Should be minimised if they have accessed alternative funding.
<b>Total</b>	<b>625</b>		

Annexe 4 – Schedule of projected reserves and balances

	Forecast balance available	Used in budget review	Planned use in 2020/21	20/21 contribution	2019-2020
<b>General Fund Useable Revenue Reserves</b>	<b>`000</b>	<b>`000</b>	<b>`000</b>	<b>`000</b>	<b>`000</b>
Flexible Homelessness Support Grant	(500)	474	221	(542)	(653)
Commercial Property Void provision	0	425	0	(400)	(25)
Emergency Funding	(0)	17	0	0	(17)
Climate change	(300)	0	0	(300)	0
Brightwells Reserve - licence from dogflud	(16)	296	0	0	(311)
Local Plan Reserve	(236)	0	0	0	(236)
Place shaping	(132)	188	0	0	(320)
Investment Advisory Board	(2,014)	418	95	0	(2,527)
Revenue Reserve Fund - Capital Programme funding	(197)	0	717	(578)	(336)
Insurance Reserve - MMI run off	(188)	0	0	0	(188)
Insurance Reserves	(566)	0	0	0	(566)
Borough Elections Reserve	(63)	0	0	(30)	(33)
Business Rates Equalisation Reserve	(3,201)	649	0	0	(3,850)
SANG Site acquisition	(800)	200	0	0	(1,000)
General Fund working balance: min balance £3.2m	(3,200)	206	119	0	(3,525)
<b>Total General Fund Useable Revenue Reserves</b>	<b>(11,412)</b>	<b>2,874</b>	<b>1,151</b>	<b>(1,850)</b>	<b>(13,587)</b>
<b>Capital Grants Unapplied Account</b>	<b>(862)</b>	<b>0</b>	<b>98</b>	<b>0</b>	<b>(960)</b>
<b>Capital Receipts Unapplied</b>	<b>(1,619)</b>	<b>0</b>	<b>1,967</b>	<b>(52)</b>	<b>(3,534)</b>
<b>Brightwells capital receipt: £2.5m committed</b>	<b>(2,676)</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>(2,676)</b>

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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WAVERLEY BOROUGH COUNCIL

MINUTES OF THE LICENSING AND REGULATORY COMMITTEE - 30 JULY 2020

SUBMITTED TO THE COUNCIL MEETING – 11 AUGUST 2020

(To be read in conjunction with the Agenda for the Meeting)

**Present**

Cllr Robert Knowles (Chairman)	Cllr Jerry Hyman
Cllr Michael Goodridge (Vice Chairman)	Cllr Anna James
Cllr Roger Blishen	Cllr Jacquie Keen
Cllr Martin D'Arcy	Cllr Michaela Martin
Cllr Jerome Davidson	Cllr Ruth Reed
Cllr Patricia Ellis	

**Apologies**

Cllr Maxine Gale

**Also Present**

Councillor Peter Isherwood, Councillor Jenny Else and Councillor John Ward

LIC9/20 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS (Agenda item 1.)

Apologies for absence were received from Cllr Maxine Gale.

The Committee recorded a vote of thanks to Cllr Peter Clark who had resigned from the committee due to other commitments. The Chairman welcomed Cllr Jerry Hyman to the Committee in his place.

LIC10/20 ELECTION OF VICE-CHAIRMAN (Agenda item 2.)

Following the resignation of Cllr Peter Clark it was necessary to elect a new Vice Chairman. Cllr Ruth Reed nominated Cllr Michael Goodridge and Cllr Jacquie Keen seconded the nomination.

The committee unanimously **AGREED** to the nomination and Cllr Goodridge was elected.

LIC11/20 APPOINTMENT OF MEMBERS TO SUB COMMITTEES (Agenda item 3.)

Following Cllr Clark's resignation there was a vacancy on the Licencing Act 2003 Sub-Committee A and the Licensing and General Purposes Sub-Committee.

Cllr Jacquie Keen volunteered to take up the vacancy on the Licensing and General Purposes Sub-Committee and Cllr Michaela Martin volunteered to fill the vacancy on Licencing Act 2003 Sub-Committee A.

The Committee agreed to both appointments.

LIC12/20 DECLARATIONS OF INTEREST (Agenda item 4.)

There were no declarations of interest submitted.

LIC13/20 QUESTIONS FROM MEMBERS (Agenda item 5.)

There were no questions from members submitted.

LIC14/20 PAVEMENT LICENSING (Agenda item 6.)

Richard Homewood, Head of Environmental & Regulatory Services, outlined the report and associated draft policy attached to the agenda.

He advised that the government had introduced through Parliament a new streamlined 'temporary' process to apply for a 'Pavement License', to assist in business recovery following the Covid-19 pandemic and associated lockdown. The Business and Planning Act had been passed on 21 July 2020, including a late change that made the Pavement Licensing function a Council function rather than an Executive function.

The Committee asked how many licenses he expected to receive applications for and Mr Homewood advised they were estimating approximately 60. He pointed out that not all premises would need a license if they had a private forecourt.

Cllr Hyman provided detailed comments on editing and content of the report and policy and asked for clarification within the policy on a number of matters including time periods for determining applications, use of barriers, and distancing. Committee members also noted that there were some inconsistencies in the conditions in relation to use of outdoor heaters, for example. Mr Homewood thanked Members for their detailed comments

The Committee endorsed the principle of the policy and the need to help businesses recover from the lockdown, and **RESOLVED** to recommend that Council:

- i. Adopts the policy set out in Annexe A.
- ii. Sets the fee for a pavement license at £100.
- iii. Delegates authority to the Head of Environmental and Regulatory Services to issue pavement licences and/or authority to refuse or amend pavement licences in consultation with the Chairman of the Licensing and Regulatory Committee.
- iv. Delegates authority to the Head of Environmental and Regulatory Services in relation to enforcement powers under the new proposed legislation (the Business and Planning act 2020 once enacted).
- v. Delegates authority to the Head of Environmental and Regulatory Services to make minor or consequential amendments to the Policy and Licence conditions in the event of any amendments/ updating statutory instruments and or government guidance in consultation with the chairman of the Licensing and Regulatory Committee.

LIC15/20 EXCLUSION OF PRESS AND PUBLIC (Agenda item 7.)

There were no items to discuss in exempt session so the Chairman closed the meeting.

**The meeting commenced at 11.00 am and concluded at 12.42 pm**

**Chairman**

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**WAVERLEY BOROUGH COUNCIL**

**COUNCIL**

**11 AUGUST 2020**

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**Title:**

**Business and Planning Act 2020 - Pavement Licensing (outdoor seating) and alcohol licensing : temporary off sales permissions**

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**Portfolio Holder: Cllr. Nick Palmer Portfolio Holder for Operational and Enforcement Services**

**Head of Service: Richard Homewood, Head of Environmental & Regulatory Services**

**Key decision: Yes**

**Access: Public**

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**1. Purpose and summary**

- 1.1 The Government has swiftly introduced through Parliament a new streamlined process to apply for a "Pavement Licence". After proceeding through the Commons and Lords stages, on 21 July, the Commons accepted all amendments proposed by the Lords and the legislation came into force. This temporary authorisation short-circuits the usual suite of consents required under the Highways Act and planning law. The purpose of the new licence is to help the struggling hospitality sector in a time of social distancing.
- 1.2 It is proposed that this new procedure will be administered by district and borough councils in non-unitary Council areas and Waverley will therefore need to adopt a policy, set the fee and delegate to officers the authority to issue, amend and or refuse licences, and deal with enforcement.
- 1.3 This report therefore proposes a policy for Waverley Borough Council attached at Annexe A, a fee level and seeks delegation to officers for the issue, amendment and or refusal of licenses, as well as enforcement of the new arrangements.
- 1.4 This report also advises on changes to the licensing laws which will allow premises with a premises licence for on-sales of alcohol to sell off-sales without the need to apply for a formal variation to their licence in the usual way, which are limited to 11pm at the latest and new permissions for off-sales do not apply to times when the premises licence does not allow sales of alcohol for consumption in outdoor areas of the premises.

**2. Recommendation**

## The Licensing & Regulatory Committee RECOMMENDS that Council:

- i. **Adopts the policy set out in Annexe A**
- ii. **Sets the fee for a pavement licence at £100**
- iii. **Delegates authority to the Head of Environmental and Regulatory Services to issue pavement licences and/or authority to refuse or amend pavement licences in consultation with the Chairman of the Licensing and Regulatory Committee.**
- iv. **Delegates authority to Head of Environmental and Regulatory Services in relation to enforcement powers under the new legislation (The Business and Planning Act 2020).**
- v. **Delegates authority to the Head of Environmental and Regulatory Services to make minor or consequential amendments to the Policy and Licence conditions in the event of any amendments/ updating statutory instruments and/or government guidance in consultation with the Chairman of the Licensing and Regulatory Committee.**

### 3. Reason for the recommendation

- 3.1 To have a clear policy and standard conditions for pavement licensing and enable the efficient and timely administration of the licensing and enforcement procedures for pavement licensing to support the revitalisation of the hospitality industry.

### 4. Background

- 4.1 On 21 July 2020, the Business and Planning Act 2020 was passed which makes two significant licensing changes to help businesses recover from the disruption caused by Covid-19 and to support them in implementing safer ways of working, in particular the need for social distancing. The new Act makes it easier for cafés, bars, restaurants and public houses in England and Wales to seat and serve customers outdoors through temporary changes to licensing law and outdoor seating/furniture. It introduces;

- a new (temporary) "**pavement licence**" to be issued by district, borough and London borough councils authorising the use of the public highway by pubs, cafes, bars and restaurants for removable seating; and
- any premises holding a licence authorising on-sales of alcohol is deemed to also authorise **off-sales** subject to a cut off time of 11pm or the closure time of an existing outside area, whichever is the earlier. It is envisaged that these arrangements will be in place until 30 September 2021 and extensions to provisions can only be made where it is deemed reasonably necessary or appropriate for a purpose linked to the coronavirus pandemic.

### **Pavement Licences (outdoor seating)**

- 4.2 On 20 March 2020, the Prime Minister announced that cafés, pubs, bars and restaurants should close. Emma McClarkin, Chief Executive of the British Beer and Pub Association (BBPA), said that the pandemic "has been devastating for the pub sector". In a Commons statement on 23 June 2020, the Prime Minister announced that pubs and restaurants could re-open from 4 July 2020. Guidance for business re-opening is available on Gov.UK.

- 4.3 The Business and Planning Act 2020 was enacted and includes temporary measures to support businesses selling food and drink through economic recovery as lockdown restrictions are lifted but social distancing guidelines remain in place
- 4.4 As cafés, pubs and restaurants are now permitted to open, current social distancing guidelines will have considerable impact on the capacity to accommodate customers.
- 4.5 The measures set out within the new Act are designed to support businesses selling food and drink such as cafés, public houses and restaurants by introducing a temporary fast-track process for these businesses to obtain permission, in the form of a “pavement licence”, from the local council for the placement of removable furniture such as tables and chairs on the highway adjacent to their premises. This process has been introduced to assist businesses to secure licences in time for the summer.
- 4.6 This will enable them to maximise their capacity whilst adhering to social distancing guidelines and assist to protect hospitality jobs. The current process for businesses to obtain these permissions (under Part 7A of the Highways Act 1980 and operated by Surrey County Council) can be costly and time-consuming, with a longer consultation period of 28 days.
- 4.7 The Act includes temporary measures to place a cap on the application fee for businesses, enforcement and revocation powers so councils can protect public safety and amenity, and introduces a new 14-day determination period (excluding public holidays), ensuring that businesses can obtain licences in a timely and cost effective manner aiding to their financial recovery, whilst, allowing representations to be made by consultees and the public on the basis of matters such as nuisance and amenity. There are additional safeguards in that authorities must have regard to the needs of disabled people when considering whether to grant a pavement licence and licence holders must also make reasonable provision for outside seating where smoking is not permitted. There are national mandatory condition requirements in relation to pavement licences, including a no-obstruction condition so that the licence must not have the effects set out in section 3(6) of the Act. The second is a national no smoking seating area condition which seeks to ensure customers have greater choice and businesses can cater to their customer’s preferences.
- 4.8 Licensing Officers across Surrey have been liaising with Surrey County Council and have developed a draft policy and local licence conditions for use by all district and borough councils to ensure consistency of approach. This draft policy is attached at Annexe A and is recommended for adoption by the Council. The Act also sets out two conditions which apply to pavement licences which are granted or deemed to be granted which are a no-obstruction condition and a smoke – free seating condition which will apply to licences granted under the Business and Planning Act 2020 (not existing licences permitted under the Highways Act mentioned above or other legislation). In addition, businesses must continue to have regard to smoke free legislation under the Heath Act 2006 and regulations.

- 4.9 The Act caps the licence fee at a maximum of £100 to minimise the effect on businesses whilst recovering some of the cost of setting up and administering the new licences, including an element of enforcement along with other agencies. Most local authorities are setting the fee at £100 and the Council is recommended to do so for Waverley.
- 4.10 The Council also introduces reduced timescales for processing and approving applications and delegation of the authority to issue licences to officers is essential otherwise applications will be deemed to be approved if the deadlines are not met. Where it is likely that a licence should be refused it is recommended that this is delegated to officers in consultation with the relevant portfolio holder.
- 4.11 The Government has issued guidance on pavement licences (22 July) and which is available (and will likely be subject to further updating) at:

<https://www.gov.uk/government/publications/pavement-licences-draft-guidance>

### **Off-sales**

- 4.12 The measures included in the Act modify provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales, subject to a cut off time It is designed to be a temporary measure to “boost the economy”, with provisions lasting until the end of September 2021,
- 4.13 The measures will make it possible for licensed premises that have only an on-sales licence to sell alcohol for consumption off the premises. This will allow businesses to trade whilst keeping social distancing measures in place.
- 4.14 The provisions in relation to those licensed premises at paragraph 4.13 above remove the need for any application for a variation to the licence to be made, therefore no fee will need to be paid. This is designed to deliver savings to businesses, as well as providing them with certainty about how they are able to trade. It will also reduce the burden on local authorities and the police, who will not need to scrutinize any applications for licence variations from those premises affected by these measures.
- 4.15 Licensees who have had an application for an off-sales permission refused or had their off-sales permission excluded by variation or at review within the last three years, will be excluded from this licence extension. This is a safeguard to ensure that where it has recently been decided that the licensee should not have the permission, they do not receive it through this legislation.
- 4.16 The default hours in which off-sales will be permitted are limited to 11pm or the closure of an existing outside area (whichever is the earlier). Measures also temporarily suspend existing licence conditions in so far as they are inconsistent with the new off sales permission.
- 4.17 Conditions on existing dual premises licence (allowing on and off sales) that would prevent one or more of the following are also suspended under the temporary off sales provision: (i) off-sales of alcohol at a time when the premises are open for selling alcohol for consumption on the premises (subject to cut off time); (ii) off sales in an in open container; and (iii) allow deliveries of alcohol to residential or

work buildings.

- 4.18 If there were problems of crime and disorder, public nuisance, public safety or the protection of children arising from how the premises operated using the new permission, any responsible authority, including the police or environmental health, could apply for a new summary off-sales review. The off-sales review process is modelled on the existing summary review process. In the event that a new off-sales review is triggered, it will only relate to off-sales authorised by virtue of these provisions, or conditions which have effect by virtue of these provisions: it cannot be used to revoke the existing licence or modify pre-existing licence conditions.
- 4.19 The Home Office has published (on 22 July) guidance 'Alcohol licensing : guidance on new temporary off-sales permissions which is available at:'

<https://www.gov.uk/government/publications/guidance-for-temporary-alcohol-licensing-provisions-in-the-business-and-planning-bill>

## **5. Relationship to the Corporate Strategy and Service Plan**

- 5.1 The Recommendations of this report will help support the Strategy's aims to support a thriving local economy, supporting local businesses and employment whilst striking a balance with the aim of having a sense of responsibility for our environment.

## **6. Implications of decision**

### **6.1 Resource (Finance, procurement, staffing, IT)**

- 6.1.1 Income from licence fees will assist in covering the costs of setting up and administering the new licensing regime.

### **6.2 Risk management**

- 6.2.1 Failure to process and determine applications in a timely manner would lead to a number of deemed approvals with less control over their impact on the environment or the community.

### **6.3 Legal**

- 6.3.1 Legal commentary is provided throughout the body of the report.

### **6.4 Equality, diversity and inclusion**

- 6.4.1 A public sector equality duty assessment has been undertaken by the Government in accordance with Section 149 of the Equality Act 2010 which places duties on local authorities, to have due regard to: the need to eliminate unlawful discrimination, advance equality of opportunity between people who share a protected characteristic and those who don't and foster or encourage good relations between people who share a protected characteristic and those who don't. It is noted that the legislation makes provision for the Council to have regard to the needs of disabled people when considering whether to grant a

pavement licence and the legislation confirms that the licence must not have the effects set out in section 3(6) of the Act.

## **6.5 Climate emergency declaration**

- 6.5.1 The proposed policy and licence conditions take into consideration the need to reduce carbon emissions and the aspirations of the Climate Change and Sustainability Strategy.
- 6.5.2 The pavement licence arrangements require licence holders to make reasonable provision for outside seating where smoking is not permitted. Businesses must continue to have regard to smoke free legislation under the Health Act 2006, and the subsequent Smoke Free (Premises and Enforcement) Regulations 2006.

## **7. Consultation and engagement**

- 7.1 Consultation on the proposed policy, conditions and fees etc. has been undertaken with Licensing Managers at Councils across Surrey, SCC Highways, Surrey Police, WBC Planning Team, and WBC Environmental Health.
- 7.2 The legislation and proposed application procedure also requires a period of consultation. (7 days not including public holidays)

## **8. Other options considered**

- 8.1 The council is required to implement and administer the new temporary licensing arrangements and the pavement licensing scheme.

## **9. Governance journey**

- 9.1 Report for Licensing & Regulatory Committee, 30 July 2020.  
Recommendation to Council for approval of policy, fee and delegations to officers

### **Annexes:**

Annexe A – draft pavement licensing policy and conditions

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Agreed and signed off by:  
Legal Services: date 22 July2020 GCJ  
Head of Finance: date  
Strategic Director: date  
Portfolio Holder: date

# Draft Pavement Licensing Policy



Effective: (11 August 2020)  
Version 6 – Policy Draft  
July 2020

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## 1. Introduction

The Covid-19 pandemic has affected businesses across the economy causing many to cease trading for several months while others have had to significantly modify their operations.

As the economy starts to re-open, on 25 June 2020 the Government announced a further and urgent relaxation to planning and licensing laws to help the hospitality industry recover from the coronavirus lockdown by removing short term obstacles that could get in their way.

The Business and Planning Act 2020 makes it easier for premises serving food and drink such as cafes, bars, restaurants and pubs, as lockdown restrictions are lifted but social distancing guidelines remain in place, to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing.

The measures included in clauses 1 – 10 of the Act modify provisions in the Licensing Act 2003 to provide automatic extensions to the terms of on-sales alcohol licences to allow for off-sales. It will be a temporary measure to boost the economy, with provisions lasting until the end of September 2021.

The Act also introduces a temporary fast-track process for these businesses to obtain permission, in the form of a “pavement licence”, from Waverley Borough Council for the placement of removable furniture such as tables and chairs on the pavement outside their premises. It will enable them to maximise their capacity and offer an al fresco service to customers whilst adhering to social distancing guidelines.

The Government has published the ‘COVID-19 Secure : safer public places guidance’ which provides owners and operators of public spaces with information and examples of measures that may be undertaken to adapt and manage public spaces in order to help social distancing, and which is available at <https://www.gov.uk/guidance/safer-public-places-urban-centres-and-green-spaces-covid-19> and may be updated from time to time

Currently, tables and chairs permissions are granted by Surrey County Council, the Highways Authority, under Part 7A (section 115E) of the Highways Act 1980. The fee varies between local authorities and there is a time consuming 28 day consultation period.

The new temporary pavement licence measure places a cap on the application fee for businesses, and introduces a new 14-day determination period (excluding public holidays), involving a period of consultation to ensure protection of public safety and amenity and allow businesses to apply for pavement licences in a timely and cost effective manner aiding to their financial recovery.

## 2. Scope

### 2.1 Definition of pavement licence

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes.

### 2.2 Eligible Businesses

A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) can apply for a licence. Businesses that are eligible include: public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours.

A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

### 2.3 Eligible Locations

Licences can only be granted in respect of highways listed in section 115A (1) Highways Act 1980.

Generally, these are footpaths restricted to pedestrians or are roads and places to which vehicle access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt (so a licence cannot be granted).

### 2.4 Type of furniture permitted

The furniture which may be used is:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;
- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

This furniture is required to be removable, which in principle this means it is not a permanent fixed structure, and is able to be moved easily, and stored away of an evening.

The Council would also expect the type of furniture to be 'in keeping' with the local area.

### 2.5 Planning Permission

Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.

## 3. Application and Determination of Pavement Licences

### 3.1 Submission of the Application

An application for a Pavement Licence must be made to the Council, and the following will be required to be submitted electronically with the application:

- a completed Application Form
- the required fee of £100, paid on-line by credit or debit card
- a site plan showing the location of the premises shown by a red line, so the application site can be clearly identified.
- a detailed plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items that the applicant wishes to place on the highway. The plan shall include clear

measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area. The Act requires a licence-holder to make reasonable provision for seating where smoking is not permitted, the plan must clearly show the area that is designated as non smoking which will have a 2 metre gap from the smoking permitted area.

- a risk assessment demonstrating how the applicant will manage social distancing and the conflict between pedestrians using the footway, those using the tables and those queuing to access the premises,
- the proposed days of the week on which, and the times of day between which, it is proposed to put furniture on the highway,
- the proposed duration of the licence (for e.g. 3 months, 6 months, a year or 30 September 2021);
- evidence of the right to occupy the premises (e.g. the lease);
- photos or brochures showing the proposed type of furniture and information on potential siting of it within the area applied;
- (if applicable) reference of existing pavement licence currently under consideration by the local authority;
- a copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £10 million, and
- any other evidence needed to demonstrate how the Council's local conditions, and any national conditions will be satisfied.
- (Following Submission of the application) evidence that the applicant has met the requirement to give notice of the application (for example photographs of the notice outside the premises and of the notice itself);

### 3.2 Fees

The fee for applying for a licence under the new process are set locally, but are capped by the Government at £100.

Application fees must accompany the application in order for the application to be considered valid and for the consultation period to commence.

The fee is an 'application' fee for the processing of the application. The fee will not be refunded if the application is withdrawn, refused or if a licence is surrendered or revoked before expiration.

### 3.3 Consultation

Applications are consulted upon for 7 days (excluding public holidays), starting with the day on which a valid application was made to the Council.

The Council will publish details of the application on its website at [www.waverley.gov.uk/pavementlicence](http://www.waverley.gov.uk/pavementlicence)

The Council is required by law to consult with the Highways Authority. In addition, to ensure that there are not detrimental effects to the application the Council will consult with:

- Waverley Borough Council Economic Development
- Waverley Borough Council Environmental Health Service (both Food, Health and Safety and Environmental Protection Teams)
- Waverley Borough Council Estate Management

- Waverley Borough Council Planning
- Waverley Borough Councillors
- Parish and Town Councils
- Chambers of Commerce
- Surrey Coalition of Disabled People
- Surrey Fire & Rescue Service
- Surrey Police

Members of the public and others listed above can contact the Council to make representations in writing and preferably by e-mail.

The Council must take into account representations received during the public consultation period and consider these when determining the application.

### 3.4 Site Notice

An applicant for a pavement licence must on the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises. The notice must be constructed and secured so that it remains in place until the end of the public consultation period. Evidence of the site notice requirement must be supplied to the Council.

The Site Notice must:

- state that the application has been made and the date on which it was made;
- state the statutory provisions under which the application is made;
- state the address of the premises and name of the business;
- describe the proposed use of the furniture;
- indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to an end;
- state the Council's website where the application and any accompanying material can be viewed during the consultation period;
- state the address to which representations should be sent during the consultation period; and
- the end date of the consultation (7 days (excluding public holidays) starting the day after the application is submitted to the authority).

A template Site Notice is shown as Appendix 1.

### 3.5 Site Assessment

The following matters will be used by the Council and consultees in considering the suitability of the proposed application:

- public health and safety – for example, ensuring that uses conform with latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted and businesses reopening;
- public amenity – will the proposed use create nuisance to neighbouring occupiers by generating anti-social behaviour and litter; and
- accessibility – taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, its surroundings and its users, taking account of:

- any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles;
- whether there are other permanent street furniture or structures in place on the footway that already reduce access;
- the impact on any neighbouring premises
- the needs of disabled people and recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of Inclusive Mobility (Government best practice guidance on creating a barrier free pedestrian environment issued by the Department of Transport which is available at <https://www.gov.uk/government/publications/inclusive-mobility>, and
- other users of the space, for example if there are high levels of pedestrian or cycle movements.

Applicants are strongly encouraged to talk to neighbouring businesses and occupiers prior to applying to the local authority, and so take any issues around noise, and nuisance into consideration as part of the proposal.

### 3.6 Determination

Once the application is submitted the Council has 14 days from the day after the application is made (excluding public holidays) to consult on, and determine the application. This consists of 7 days for public consultation, and then 7 days to consider and determine the application after the consultation period has ended.

If the local authority determines the application before the end of the determination period the local authority can:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application, and impose conditions, or
- refuse the application.

If the local authority does not determine the application within the 14 day period (excluding public holidays), the application will be deemed to have been granted for a period of one year subject to any published local or national conditions.

### 3.7 Approval of Applications

The Council may approve applications meeting the criteria contained within these guidelines.

On approving the application, the Council will issue a Pavement Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when tables and chairs are permitted and appearance and location of the furniture corresponding to the application.

A copy of the Council's standard conditions and National Conditions, which will be attached to all Pavement Licences are shown at Appendix 2. Additional conditions may be attached if the Council considers it appropriate in the circumstances of any particular case.

The Council will only permit Pavement Licences to operate between the hours of 09:00 and 22:00.

Applications outside these hours will be assessed in terms of the criteria detailed in 3.5 above. The Council retains the right to specify permitted hours of trading that are less than those specified above in appropriate circumstances.

### 3.8 Licence Duration

If the Council determines an application before the end of the determination period (which is 7 days, beginning with the first day after the public consultation period of 7 days, excluding public holidays) it can specify the duration of the licence, subject to a minimum duration of 3 months.

The expectation from the Government is that local authorities will grant licences for 12 months or more unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space. As such, the Council will normally grant applications with no limit on duration which will automatically expire under the Act on 30 September 2021.

If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for a year.

A licence granted or deemed to be granted will not be valid beyond 30 September 2021.

### 3.9 Refusal of Applications

If the site is deemed unsuitable for a Pavement Licence, or if relevant representations are made which cannot be mitigated by conditions then the application may be refused.

There is no statutory appeal process against a decision to refuse an application.

## 4. Conditions

The Council's standard conditions are set out at Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application, on a case by case basis.

Where a local authority sets a local condition that covers the same matter as set out in national published conditions, then the locally set condition takes precedence over the national condition where there is reasonable justification to do so.

The national 'no-obstruction' and provision of a 'no smoking' seating area conditions apply to all Licences. The national conditions or standard conditions which are deemed attached to all Licences granted under the new regime are shown in Appendix 3.

## 5. Enforcement

The Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. The case remains that an obstruction of the Highway is an offence under section 149 of the Highways Act 1980 and will be dealt with

by the Highways Authority or the Police and which can also be enforced by the local authority, under clause 7(6) of the new Act.

Obtaining a Licence does not confer the holder immunity in regard to other legislation that may apply, e.g. Public Liability, Health & Safety at Work, Food Hygiene and Safety, Alcohol and Entertainment Licensing, Social distancing controls, and applicants must ensure all such permissions, etc. are in place prior to operating.

If a condition imposed on a Pavement Licence either by the Council (local condition) or via a national condition is breached the Council will be able to issue a notice requiring the breach to be remedied. If the notice is not complied with, the Council may revoke the licence or take the required steps itself and recover the costs of doing so.

The authority may revoke a Pavement Licence in the following circumstances:

1. Where:

- There are risks to public health or safety – for example by encouraging users to breach government guidance on social distancing by placing tables and chairs too close together;
- the highway is being obstructed (other than by anything permitted by the licence);
- anti-social behaviour or public nuisance is being caused or risks being caused – for example, the use is increasing the amount of noise generated and litter is not being cleaned up;
- it comes to light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling hot food and had only applied for tables and chairs on which drinks could be consumed; or,
- the applicant did not comply with the requirement to affix the notice to notify the public for the relevant period; or

2. For breach of condition, (whether or not a remediation notice has been issued)

3. The Council may also revoke the licence where all or any part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, where the licensed area (or road adjacent) is no longer to be pedestrianised. The Council will give reasons where these powers are used.

## **6. Review Procedures**

This Policy covers the Temporary Permission for Pavement Licences under the Business and Planning Act 2020 which are scheduled to expire on 30 September 2021.

This Policy will be reviewed from time to time should changes occur in relevant legislation, the nature of Pavement Licences generally, relevant social distancing measures or as a result of local considerations within the Waverley Borough Council area.

Site Notice Template for display by an applicant for a Pavement Licence.

**[Section 2(5)] of the Business and Planning Act 2020.  
NOTICE OF APPLICATION FOR A PAVEMENT LICENCE**

I/We *(name of applicant)*,

do hereby give notice that on *(date of application)* [I/we] have applied to Waverley Borough Council for a 'Pavement Licence' at:

*(postal address of premises)*

known as

*(name premises known by)*

The application is for:

*(brief description of application (e.g. outdoor seating to the front of the premises for serving of food and drink))*

Any person wishing to make representations to this application may do so by writing, preferably by email, to:

[Pavementlicence@waverley.gov.uk](mailto:Pavementlicence@waverley.gov.uk)

or

Licensing Team  
Environmental and Regulatory Services  
Waverley Borough Council  
The Burys  
Godalming  
GU7 1HR

by: *(specify the last date for representations being the date 7 days after the date the application is submitted to the local authority (excluding public holidays))*

The application and information submitted with it can be viewed on the Council's website at: [www.waverley.gov.uk/pavementlicence](http://www.waverley.gov.uk/pavementlicence)

Signed .....

Dated *(date the notice was placed which must be the same date as the date of application)*



## Waverley Borough Council local standard pavement licence conditions

1. Permission to operate a Pavement Licence area does not imply an exclusive right to the area of public highway. The licence holder must be aware that Waverley Borough Council and others (e.g. Surrey Police, Highways Authority, statutory undertakers) will need access at various times (including emergencies) for maintenance, installation, special events, improvements etc. or any other reasonable cause. This may mean that the pavement licence area will need to cease operating and/or be removed for a period of time. On these occasions there would be no compensation for loss of business.
2. The licence holder must hold Public Liability Insurance for the operation of the Pavement Licence. This must indemnify Waverley Borough Council and Surrey County Council against all claims for injury, damage or loss to users of the public highway, arising from the use of the highway for the permitted purpose. The minimum level of indemnity must be £10 million in respect of any one incident. Evidence of the insurance must be provided to Waverley Borough Council on request.
3. Tables and chairs etc. must not be placed in position outside of permitted times. When the licence is not in use, all tables and chairs and other furniture must be stored securely inside a premises away from the highway.
4. Waverley Borough Council and/or Surrey County Council are empowered to remove and store or dispose of furniture from the highway, at the cost of the licensee, if left there outside the permitted hours, or should any conditions of the licence be ignored. The Council will not be responsible for safekeeping.
5. An unimpeded pedestrian route must be maintained at all times for people wishing to use the footway as per the National Licence Conditions.
6. The method of marking the boundary of the licensed area must be agreed between the licence holder and the Licensing Department. Whatever method is agreed a 2 metre clear walkway must be maintained for the use of pedestrians.
7. Emergency routes to the premises and adjacent buildings must not be obstructed by the Pavement Licence area, which should not, in normal circumstances, extend beyond the width of the premises frontage.
8. Tables and chairs and other items permitted should be kept in a good state of repair. Furniture should be placed so as not to obstruct driver sightlines, or road traffic signs. Placement of tables and chairs must allow pedestrians to use the footway parallel to the frontage of the premises. Care should be taken in the use of hanging baskets, awnings, protruding umbrellas etc. Alternative items may not be used without first seeking the written authority of the Council.
9. All potential obstructions must be removed from the public highway when the premises are closed to prevent a safety hazard to pedestrians, particularly during the hours of darkness.
10. The licensee should ensure that the area operates in a safe and orderly manner, thereby minimising any safety risk or nuisance to customers, other users of the public highway or any adjacent land or premises.

11. The operation of the area must not interfere with highway drainage arrangements.
12. During the hours of darkness suitable and sufficient lighting must be provided to ensure safe use of the area. Any proposals to provide additional lighting to the licensed areas must be agreed with the Highway Authority in writing.
13. No later than 1<sup>st</sup> September 2020, with the exception of pre-packaged confectionery, all food and drink containers and packaging shall be re-useable, recyclable or compostable.
14. All detritus (food and drink remnants, spillages, bottles, cans, wrappers etc.) be regularly removed from the footway surface to reduce hazards to pedestrians. The licence holder must make arrangements to regularly check for and to remove litter and rubbish on pedestrian walkways, caused by persons using the Facility, for a distance of up to 10 metres from the boundary of the Pavement Licence area. The licence holder must ensure that any tables are cleared in an efficient manner during the hours of operation. The licence holder must ensure the licensed area and surrounding highway is to be washed down at the completion of each day's usage using a method sufficient to remove food debris, grease and other spillages that may occur.
15. The licence holder is not permitted to make any fixtures, or excavations of any kind, to the surface of the highway without prior written approval from Surrey Highways.
16. The Licensee of a premises not licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the licensed area.
17. The Licensee of a premises licensed under the Licensing Act 2003 or any modification or re-enactment thereof, must not allow the consumption of alcoholic liquor within the licensed area outside the hours in force for the premises itself.
18. The licence must be displayed on the premises with a plan of the agreed layout of the pavement licence area.
19. The licence holder must remove any tables, chairs and other furniture immediately at the end of the licence period each day or on revocation of the licence.

#### **NOTES:**

These conditions should be read in conjunction with any mandatory national conditions concerning pavement licences, if the premises is licenced under the Licensing Act 2003, any relevant conditions attached to the premises licence, the latest government requirements concerning coronavirus and social distancing and any other relevant requirement of the Business and Planning Act 2020.

The licence holder is responsible for ensuring that the conditions of the licence and any other necessary permissions and regulations are adhered to. The Licence holder is to use the highway solely for the purpose of the licence in line with the provisions of this licence and for no other purpose whatsoever.

Waverley Borough Council reserves the right to revoke this licence at any time if any of the above conditions are not complied with.

## National Conditions

The Secretary of State publishes these conditions in exercise of his powers under clause 5(8) of the Business and Planning Act 2020 and may publish conditions for pavement licences in addition to the statutory conditions referred to below. All and any national conditions must be complied with throughout the duration of the pavement licence period:

### Condition relating to clear routes of access – a ‘no obstruction condition’ – as set out at section 5(5) of the Business and Planning Act 2020:

It is a condition that anything done by the licence holder pursuant to the licence or any activity of other persons which is enabled by the licence must not:

- (a) prevent traffic, other than vehicular traffic, from—
  - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
  - (ii) passing along the relevant highway, or
  - (iii) having normal access to premises adjoining the relevant highway,
- (b) prevent any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
- (c) prevent statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
- (d) prevent the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.

as set out in section 3(6) of the Act.

### Condition relating to provision of a no smoking seating area - ‘a smoke free seating condition’ – as set out at 5(6) of the Business and Planning Act 2020:

It is a condition of the legislation that a licence-holder make reasonable provision for seating where smoking is not permitted.

Guidance on the effect of this condition:

1. Where seating used for the purpose of consuming food or drink has been, (or is to be) placed on the relevant highway in accordance with the licence. **The licence-holder is required to make reasonable provision for seating where smoking is not permitted.** This means that where businesses provide for smokers, customers will also have the option of sitting in a non-smoking area. Ways of meeting this condition could include:

- Clear 'smoking' and 'non-smoking' areas, with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (signs) regulations 2012 which can be viewed [here](#).
  - No ash trays or similar receptacles to be provided or permitted to be left on furniture where smoke-free seating is identified.
  - Licence holders should provide a minimum 2 metres distance between non-smoking and smoking areas, wherever possible.
2. Further, business must continue to have regard to smoke-free legislation under The Health Act 2006, and the subsequent Smoke-free (Premises and Enforcement) Regulations 2006.

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE AUDIT COMMITTEE - 20 JULY 2020

SUBMITTED TO THE COUNCIL MEETING – 11 AUGUST 2020

(To be read in conjunction with the Agenda for the Meeting)

**Present**

Cllr Peter Marriott (Chairman)

Cllr Jerome Davidson (Vice Chairman)

Cllr Richard Cole

Cllr Simon Dear

Cllr Jan Floyd-Douglass

Cllr Richard Seaborne

Cllr George Wilson

**Apologies**

Cllr Michaela Gray

**Also Present**

Councillor Jerry Hyman

AUD 1/20 MINUTES (Agenda item 1.)

The minutes of the previous meeting were noted.

The Chairman advised there were two outstanding actions and two implied actions set out in the notes:

- AUD43/19 Car Parking Charges – Graeme Clark advised that the item had been transcribed prior to the Council meeting as requested.
- AUD48/19 - Air Quality data capture and lessons learned - Internal Audit reviews relating to sole staff dealing with a function and the collation and reporting of data to third parties would be added to the revised Audit Plan in September.
- Detailed discussion on the Property Investment Strategy – This would be held offline and reported back to the Committee.
- Costed Internal Audit Plan – to be circulated to Members.

AUD 2/20 APOLOGIES FOR ABSENCE (Agenda item 2.)

Apologies were received from Cllr Michaela Gray.

AUD 3/20 DISCLOSURE OF INTERESTS (Agenda item 3.)

There were no interests declared in relation to matters on the agenda.

AUD 4/20 QUESTIONS BY MEMBERS OF THE PUBLIC (Agenda item 4.)

There were none.

AUD 5/20 QUESTIONS FROM MEMBERS (Agenda item 5.)

There were none.

**PART I - RECOMMENDATIONS TO THE COUNCIL**

There were no matters falling within this category.

**PART II - MATTERS OF REPORT**

The background papers relating to the following items are as set out in the reports included in the original agenda papers.

AUD 6/20 UPDATED EXTERNAL AUDIT SCOPE 2019/20 (Agenda item 6.)

Jon Roberts, Grant Thornton, outlined the report set out in the agenda focussing on the impact of the COVID-19 pandemic on the external audit plan. From a logistical perspective, he expected that it would be possible to carry out the audit remotely, and the firm was building up expertise in operating in this way. The Secretary of State had extended the audit timeline, to 30 November, and whilst it was not expected that the audit would take that long it was reassuring that time was being allowed to maintain the quality of the audit process.

With regard to the audit, the Letter set out the current view on the main technical areas affected by COVID as applied to the statement of accounts, with particular reference to valuations of property, plant, equipment and investments, and disclosures around going concern. Whilst the audit of the 2019/20 year was a backwards look, from a going concern perspective, the audit would be looking for evidence to support the council's going concern disclosures for the 12 months following the date of the audit opinion; so up to 30 September 2021. The value for money element of the audit would not be materially impacted by the COVID situation, as the focus was on the period to 31 March 2020. Obviously, it would feature in the audit for 2020/21.

In concluding his remarks, Mr Roberts confirmed that a planning meeting had been held with Waverley officers and there was a shared understanding of the issues and how the audit team and Waverley officers would be working together to complete the audit. The target completion date was 30 September, which would allow some contingency time before the deadline of 30 November.

In response to questions from the Committee, Mr Roberts advised:

- The risk to reserves in the event of further COVID expenses or income loss would be addressed as part of the 'going concern' considerations, as it was looking forward over the next 12 months.
- Similarly, Waverley's revised budget for 2020/21 would be looked at in the context of financial sustainability.
- The risks around the proposals for local government reorganisation and unitary authorities would be a matter for next year's audit.

- Valuations would be carried out in line with statutory guidance and codes of practice, and the Council engaged experts to perform professional valuations. These would be tested and challenged by Grant Thornton to ensure that they were robust and appropriate as the impacts of COVID emerge over the next few months.

In conclusion, the Committee discussed the impact of COVID on future ways of the external audit team carrying out their work. The Committee noted that Waverley had published the draft accounts for 2019/20 last week and they had been handed over to the External Auditors.

AUD 7/20 AUDIT COMMITTEE MEMBERS BRIEFING - RISK REGISTER (Agenda item 7.)

The Committee thanked Officers for the briefing on Risk Management last week, and agreed that there should be a follow-up session to review the Strategic Risk Register and look at mitigations in place.

**Action: Session on Strategic Risk Register be booked for Mid to End August.**

The Committee commented that it had been agreed at the briefing that the committee would break down the categorisation of risks to drill down in more detail and that they would like to looking at what mitigation means.

AUD 8/20 REVIEW OF PROGRESS IN THE IMPLEMENTATION OF INTERNAL AUDIT RECOMMENDATIONS (Agenda item 8.)

Gail Beaton explained that the report outlined those recommendations not implemented by the agreed target date. There were only three, and the Head of Service involved had assured would be completed by the end of the month. Therefore it would not be necessary to extend the deadline for completion.

The Committee felt that regarding IA20/08.002, planning enforcement was not always as vigorous as Members would like, and suggested that the Environment O&S Committee might want to follow-up on the policy element of the work. Officers advised that a review of the Local Planning Enforcement Plan was underway and this would be considered by the O&S committee in due course, which would give Members an opportunity to understand the role and scope of the Planning Enforcement Team.

The Committee **considered** the information in Annexe 1 and felt no actions were necessary.

AUD 9/20 PROGRESS ON THE INTERNAL AUDIT PLAN 2019/20 AND 2020/21 (Agenda item 9.)

Gail Beaton introduced the reports set out in the agenda. The Committee were advised that the first report set out the closure of the plan for 2019/20 and the positive customer feedback received. All reviews have been completed.

The Committee discussed how lessons learned from Internal Audit reviews were shared and cascaded to officers, and whether internal audit reports were available to Members. The Committee noted that lessons learned were shared through

training events, and updating practical guidance available to support officers. There had been training on project management on a standard project management methodology; and the Procurement Officer kept guidance updated on procurement procedures.

Internal Audit Reports were not automatically circulated to Members, but could be made available on request.

Cllr Jerry Hyman had registered to speak on this item and advised that he had asked the same question regarding the Review on the Management of Major Projects relating to the lessons learned from Brightwells and Memorial Hall projects and would like to see a copy of this report. He also felt these should also go to scrutiny and be publically available even if areas have to be redacted for the areas stated above.

With regard to the 2020/21 Audit Plan, a lot of the actions were in progress and dealing with completing the work through remote working. It was hoped that there would not need to be significant rescheduling of the Plan due to the COVID impact. The outcomes from the March meeting re sole responsible staff for a function and data government returns would be included in the plan for the September meeting.

The Committee asked why there was a question mark in the column for Post Payment Business Grant Compliance. Gail Beaton advised that the internal audit review could not begin until Government had provided the guidance on what they were looking for in post-payment assurance. Graeme Clark advised that the Council had paid out over £22m of grants, but he was satisfied with the level of controls that had been put in place at very short notice by the Finance Team.

The Audit Committee **NOTED** the contents of the:  
Internal Audit Plan 2019-20 progress report as attached in Annexe 1; and  
Internal Audit Plan 2020-21 progress report as attached in Annexe 2.

#### AUD 10/20 INTERNAL AUDIT CHARTER (Agenda item 10.)

Gail Beaton outlined the report set out in the agenda. The Committee were advised that the Charter had been approved last year and there had been some minor changes made which were outlined.

Cllr Floyd-Douglas asked for the word 'timely' to be added to the definition of Internal Audit (point 2.1). Gail Beaton advised that this definition belonged to the Public Sector Internal Auditing Standards it was not a locally set definition. However she could insert "timely" into Para 3 re Purpose of Internal Audit, last sentence re "appraise and report in a timely manner upon the adequacy of internal controls.....".

The Audit Committee **APPROVED** the Internal Audit Charter as attached in Annexe 1 subject to the amendment set out above.



AUD 11/20 ANNUAL INTERNAL AUDIT REPORT 2019/20 (Agenda item 11.)

Gail Beaton outlined the report set out in the agenda. She advised that the report set out the work completed in 2019/20. It was noted that there was a balanced coverage of work in all areas of the business. Assurances showed that most were adequate.

It was noted that in section 10 of the report a couple of metrics had not been included that had been there in previous years.. It was felt these were useful metrics that should be included. Gail Beaton explained these had been removed to make the report standard with other authorities covered by the contractor but could be reinstated and marked as local measures.

Councillor Jerry Hyman had registered to speak on this item.

He noted that *'the review relating to Ethics and Culture has been deferred to 2020-21 as the Governance review being completed by Members has not been finalised and it was deemed more effective to await the outcomes before any value can be obtained from an Internal Audit review of the governance arrangements around ethics.'* He therefore asked when the Governance review would be completed.

Cllr Hyman had also asked what systems and processes existed to enable residents, Members and the independent internal audit function to hold the Council Leadership, Monitoring and Legal functions to account in respect of legal compliance and fraud prevention, without having to resort to High Court action.

In response, Mrs Beaton directed Cllr Hyman to the corporate complaints process, or the option of contacting the Monitoring Officer, Standards Committee or External Auditors directly with evidence to support any allegations being made. Internal Audit would raise any concerns relating to the legal compliance and fraud prevention through the Council's Management Board, and with the External Audit function if this was necessary.

The Audit Committee **NOTED** the annual internal audit report and audit opinion for 2019/20.

AUD 12/20 FRAUD INVESTIGATION SUMMARY (Agenda item 12.)

Gail Beaton outlined the reports set out in the agenda. Annexe 1 related to 2019-20 and Annexe 2 related to Q1 of 2020/21.

In response to questions from the Committee, Mrs Beaton advised:

- In the case of council housing fraud, court action was a last resort to secure the return of a property but other solutions would be explored to avoid that.
- More resources were provided to support housing fraud investigation in 2016, which resulted in some historic cases being identified.
- It was not usual to get costs back as many tenants were on housing benefit or low income but if it could be proved that they had financially benefited then the council could apply to the court for the Proceeds of Crime.

The Audit Committee **NOTED** the results of the fraud investigation activity, attached in:

Annexe 1 for the full year (01 April 2019 to 31 March 2020).  
Annexe 2 for the 1st quarter (01 April 2020 to 30 June 2020).

AUD 13/20 AUDIT COMMITTEE RECURRENT ANNUAL WORK PROGRAMME (Agenda item 13.)

The Committee noted that the work programme was a recurrent schedule but due to the pandemic and revision of target dates for audit reports that some items had been deferred from July to the September meeting.

The Annual Governance Report would now be presented to the September meeting alongside the accounts.

The Committee **NOTED** the annual work programme and the amendments due to the delay in reporting this year.

**The meeting commenced at 6.00 pm and concluded at 7.39 pm**

**Chairman**